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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JAYANN A. LOCKE,

Plaintiff,

v.

DELUXE AUTO SALES, CAPITAL ONE AUTO
FINANCE, AMERIPLUS, PRESTIGE
MERCEDES BENZ, K&E SERVICE CENTER,

Defendants.

Civil Action No. _____

NOTICE OF REMOVAL

Document Electronically Filed

**TO: CHIEF JUDGE AND JUDGES OF
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ON NOTICE TO:

Deputy Clerk, Superior Court of New Jersey
Union County Courthouse
2 Broad Street
Elizabeth, NJ 07201

Ronald L. Lueddeke, Esq.
Lueddeke Law Firm
215 Morris Avenue
Spring Lake, NJ 07762

Michelle M. Smith
Clerk of the Superior Court of New Jersey
R.J. Hughes Justice Complex
25 West Market Street
Trenton, NJ 08625

Attorneys for Plaintiff Jayann A. Locke

Defendant Capital One Auto Finance (“Capital One”), through its undersigned counsel, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, respectfully notices the removal of the above-captioned action to the United States District Court for the District of New Jersey from the Superior Court of New Jersey, Law Division, Union County. The grounds for removal are as follows:

1. Pursuant to Rule 10.1(a) of the Local Civil Rules of this District Court, the addresses of the named parties are as follows:

- a. Plaintiff Jayann A. Locke resides at 1020 Belmont Avenue, North Haledon, New Jersey. *See* Compl. at 1.
- b. Capital One is a national bank with its principal place of business in Virginia. The location of Capital one’s main office is located at 1680 Capital One Drive, McLean, Virginia 22102.
- c. Upon information and belief, Defendant Deluxe Auto Sales is a New Jersey corporation with its principal place of business located at 731 E. Edgar Road, Linden, New Jersey 07036.
- d. Upon information and belief, Defendant Ameriplus is a Delaware corporation with its principal place of business located at 1785 Hancock Street, Suite 100, San Diego, California 92110-2051.
- e. Upon information and belief, Defendant Prestige Mercedes Benz is a division of Prestige Motors, Inc., a New Jersey corporation with a principal place of business located at 755 NJ-17, Paramus, New Jersey 07652.

f. Upon information and belief, Defendant K&E Service Center is a New Jersey corporation with its principal place of business located at 573 Clifton Avenue, Clifton, New Jersey 07001.

2. On or about June 14, 2017, Plaintiff Jayann A. Locke (“Plaintiff”) filed a Complaint in the Superior Court of New Jersey, Law Division, Union County, captioned, *Jayann A. Locke v. Deluxe Auto Sales, Capital One Auto Finance, Ameriplus, Prestige Mercedes Benz, and K&E Service Center*, bearing case number UNN-L-2309-17 (the “State Court Action”). A copy of the Complaint was first received by Capital One, through an authorized agent of process, on August 7, 2017. The Complaint, together with a copy of all process, pleadings, and orders served upon Capital One in this action are annexed hereto as **Exhibit A** in accordance with 28 U.S.C. § 1446(a).

3. This Court has original federal question jurisdiction over the State Court Action pursuant to 28 U.S.C. § 1331. This basis for jurisdiction is consistent with general federal question jurisdiction under 28 U.S.C. § 1331, which gives the District Court jurisdiction over actions arising under the laws of the United States. The Magnuson-Moss Warranty Act, 15 U.S.C. § 2310(d)(3), provides this Court with jurisdiction over the case because the amount in controversy is not less than the sum or value of \$50,000 exclusive of interests and costs, computed on the basis of all claims to be determined in the suit.

THE STATE COURT ACTION

4. On or about August 7, 2017 Capital One received service of the Summons and Complaint by service through an authorized agent of process. Accordingly, this Notice of Removal, filed within the thirty-day period prescribed by 28 U.S.C. § 1446, is timely.

5. The Complaint alleges that Capital One and its co-defendants violated the Magnuson-Moss Warranty Act by affirmative acts and omissions regarding the purchase of a 2009 Mercedes ML63 motor vehicle. *See* Compl. at 9, 10–11.

THIS COURT'S REMOVAL JURISDICTION

6. Title 28 U.S.C. § 1441(a) and (c) and Title 28 U.S.C. § 1331 provide the basis for removal jurisdiction to this Court. Plaintiff claims that Defendant violated the Magnuson-Moss Warranty Act, which is a federal law. The amount in controversy exceeds the jurisdictional minimum outlined in the Magnuson-Moss Warranty Act. The total amount Plaintiff would have been obligated to pay under the Retail Installment Sales Contract was \$47,787.26. *See* Compl. at Ex. B; *see also Royster v. Jaguar Land Rover N. Am., LLC*, Civil No. 11-3599 (WHW), 2011 U.S. Dist. LEXIS 117468 (D.N.J. Oct. 12, 2011) (calculating amount in controversy for Magnuson-Moss claim beginning with total amount the plaintiff would have been required to pay if held to her vehicle contract). In addition, Plaintiff alleges repairs necessary that exceeded \$10,000. *See* Compl. at 6, Ex. F, Ex. G (alleging plaintiff was required to pay \$2,894.03, \$950, and \$7,400, respectively, to repair vehicle). Therefore, the amount in controversy is greater than \$50,000 and this Court has original federal jurisdiction under 28 U.S.C. § 1331 and 15 U.S.C. § 2310(d)(3).

7. The timing requirements of 28 U.S.C. § 1446(b) have been satisfied in that this Notice of Removal has been filed with this Court within thirty (30) days after receipt of the Complaint by Capital One. The time for filing this Notice of Removal has not expired under 28 U.S.C. § 1446(b).

8. The United States District Court for the District of New Jersey, Newark Division is the appropriate court to which this action should be removed because Union County, New Jersey falls within the Newark Division under the court's Vicinage Lines for Case Assignment.

9. A true and correct copy of this Notice of Removal is being served upon Plaintiff as required by law under 28 U.S.C. § 1446(d).

10. A true and correct copy of this Notice of Removal is also being filed promptly with the Clerk of the Superior Court of New Jersey, Law Division, Union County, in accordance with 28 U.S.C. § 1446(d). A copy of the Notice of Filing of Notice of Removal (without its exhibit), is attached hereto as **Exhibit B**.

11. In addition to satisfying the requirements of federal question jurisdiction, Capital One has met all other requirements for removal. All other co-defendants have consented to this removal, in writing. These consents are attached hereto as **Exhibit C**.

12. If any questions arise as to the propriety of the removal of this action, Capital One requests the opportunity to present a brief and argument in support of its position that this has been properly removed to this Court.

WHEREFORE, Capital One hereby removes this action, currently pending in the Superior Court of New Jersey, Law Division, Union County, to the United States District Court for the District of New Jersey.

Dated: New York, New York
September 6, 2017

Respectfully submitted,

TROUTMAN SANDERS LLP

By: /s/ Amanda Lyn Genovese

Amanda Lyn Genovese

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New York, NY 10022

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Attorneys for Defendant Capital One Auto Finance

**LOCAL CIVIL RULE 11.2 CERTIFICATION
AND CERTIFICATE OF SERVICE**

I, Amanda Lyn Genovese, hereby certify that, to the best of my knowledge, the matter in controversy is not the subject of any other action pending in any other court or any pending arbitration or administrative proceeding.

On September 6, 2017, I cause the foregoing to (i) be filed with the Clerk of the Court by the Court's ECF system and (ii) served upon Plaintiff's counsel by sending a true and correct copy of the foregoing by Federal Express to:

Ronald L. Lueddeke, Esq.
Lueddeke Law Firm
215 Morris Avenue
Spring Lake, NJ 07762

Attorneys for Plaintiff Jayann A. Locke

Dated: New York, New York
September 6, 2017

TROUTMAN SANDERS LLP

By: /s/ Amanda Lyn Genovese
Amanda Lyn Genovese

Attorneys for Defendant Capital One Auto Finance